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Motion for New Trial Made and Hearing Set for October 4, 1913, Thus Making It Certain Prisoner Will Get Delay.

NEWT LEE IS RELEASED BY ORDER OF THE COURT

Leo Frank Tells Judge That He Is Innocent, but That His Case Is in the Hands of Counsel.

Leo M. Frank is sentenced to be hanged on Friday, October 10, 1913. This was the date set yesterday morning by Judge Leonard Strickland Roan, when the man convicted of the murder of little Mary Phagan was brought before him to be sentenced on Tuesday, August 26. The fact that the man's attorneys immediately made motion for a new trial and that Judge Roan set this hearing for October 4 makes it certain that Frank will not hang on the date set.

Should Judge Roan, after a hearing, grant a new trial, the execution would be postponed; should he refuse it, the execution would be postponed while the matter went through the higher courts.

Four Months Held

With the sentencing of Frank came a court order, secured by Attorneys Graham and Chappell, giving freedom to Newt Lee, negro nightwatchman for the National Pencil factory, of which Leo Frank was superintendent. The negro had been in custody since 3 o'clock on the morning of Sunday, April 27 when officers came at his call and found the dead girl's body in the factory basement.

Conley Still in Tower.

James Conley, the negro sweeper, who testified that he aided Frank in disposing of the body and whose story the jury believed,

is still in jail, as an accessory after the fact by his own confession. The maximum punishment for Conley is three years, and it is expected that he will be indicted in short order, and enter a formal plea of guilty. It is believed that he will be given less than the maximum, as is often done where a person turns state's witness.

When Frank was called upon Tuesday morning by the sentencing judge for any reason why a sentence of death should not be pronounced upon him, he reaffirmed his statement of innocence.

"Your honor, I say now, as I have always said, that I am innocent; further than that my case is in the hands of counsel." These were the words the man spoke and he looked directly at the judge as he spoke.

Very few persons were present when the sentence was passed. Judge Roan sat in his regular courtroom in the Thrower building, instead of in the civil division of the courthouse, where the trial was held, and not over 50 people were present as spectators.

Mrs. Lucille Frank Not Present.

Not even the convicted man's wife was present. She had heard of the fact that sentence was to be pronounced and was rushing to the courthouse when the words were pronounced by the judge.

As the prisoner in the custody of Deputy Sheriffs John H. Owen, George Brodnax and T.A. Burdette, was being taken back to the Tower, Mrs. Frank, the wife, came up in an automobile. The two met in front of the Thrower building. The wife greeted her husband with a smile and then followed him to the jail, where she threw her arms around him and kissed him repeatedly.

Solicitor General Hugh M. Dorsey was not present at the sentencing, and neither was Frank A. Hooper, special attorney who aided him in the trial. The state was represented by E. A. Stephens, assistant to the solicitor. All three of the defendant's attorneys were present and had a conference with Judge Roan in

his chambers shortly before the sentencing. It was then that the judge was given informal notice of the motion for a new trial.

Attorneys Luther Z. Rosser, Reuben R. Arnold and Herbert Haas are all confident that Frank will get a new trial.

Statutory Grounds Given.

In making their motion for a new trial, attorneys for Leo Frank set forth statutory grounds and at an early date will file the real motion as at amendment to the present one.

The motion as filed Tuesday sets forth: that the verdict of guilty was contrary in the evidence; that the verdict was contrary to the law; that it was contrary to the weight of law, and that the court, after overruling motion of the defense, allowed certain testimony, which was relative to other crimes not mentioned in the bill of indictment.

The last mentioned part of the motion will be the principal one on which the amended motion will be made. It refers to the testimony of Conley in which he charged perversion on the part of the young superintendent and also declared that on many previous occasions he had acted as "lookout" for him at the factory.

Leo Frank's cell was a mecca for visitors yesterday. Friends came to the jail in crowds, appearing as early as daybreak and as late as 10 o'clock at night. Even when he went to the courthouse to receive the sentence of death, he was accompanied by friends.

Both his mother and wife came to the Tower during the morning. He seemed cheerful. The wife plainly slowed the effect of the terrible strain which she had undergone during the latter days of the trial.

When the trio emerged from the room, both women kissed the prisoner goodbye and left the Tower. They were accompanied by friends and neighbors who left with them. Frank was sent back to his cage and locked in. He occupies an entire cell block in ward 3.

Statement by Defense.

Reuben Arnold and family left for the ford Springs, where they go to spend a month's vacation.

Shortly before leaving the city, Mr. Arnold conferred with Attorney Luther Z. Rosser. The result was a short statement given out to the newspapers in which the counsel for the defense declared it would have taken a jury of Stoics to have given Frank, a fair and impartial trial.

The statement was:

"We deem it not amiss to make a short statement at the attorneys of Leo M. Frank to the public:

"The trial which has just occurred and which has resulted in Mr. Frank's conviction was a farce and not in any way a trial. In saying this we do not make the least criticism of Judge Roan, who presided. Judge Roan is one of the best men In Georgia and is an able and conscientious judge.

"The temper of the public mind was such that it invaded the courtroom and invaded the streets and made itself manifest at every turn the jury made; and it was just as impossible for this jury to escape the effects of this public feeling as if they had been turned loose and had been permitted to mingle with the people."

"In doing this we are making no criticism of the jury. They were only men and unconsciously, this prejudice rendered any other verdict impossible."

"It would have required a jury of Stoics, a jury of Spartans, to have withstood this situation."

"The time ought to come when this man will get a fair trial and we profoundly believe it will."

"The final judgment of the American people is a fair one. It is sometimes delayed in coming, but it comes."

"We entered into this case with the profound conviction of Mr. Frank's innocence. The result has not changed our opinion. Every step of the trial has intensified and fortified our profound conviction of his innocence."

Signed,

"REUBEN ROSE ARNOLD," and "LUTHER ZEIGLER ROSSER."